

REPEALED

R590. Insurance, Administration. Effective 5-15-90

R590-135. Accounting Records Rule.

R590-135-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to the authority granted under Subsection 31A-2-201(3), Utah Code Annotated, (U.C.A.), to adopt rules for the implementation of the Utah Insurance Code and under Subsection 31A-23-312(2)(c), U.C.A., which allows the commissioner to establish by rule, records to be kept by licensees.

R590-135-2. Purpose and Scope.

- (1) The purpose of this rule is to issue guidelines and standards that should be followed when maintaining accounting records.
- (2) This Rule applies to all licensees holding monies in a fiduciary capacity, or who is otherwise subject to Section 31A-23-310, U.C.A.

R590-135-3. Definitions.

For the purpose of this rule, the commissioner adopts the definitions as particularly set forth in Sections 31A-1-301 and 31A-23-102, U.C.A., and in addition thereto, the following definition:

- (1) "Trust Account" means a checking or savings account where monies are held in a fiduciary capacity.

R590-135-4. Rule.

- (1) Those to which this rule applies shall maintain, at the principal place of business, accurate, records, kept on a consistent basis, which will facilitate an audit trail, and shall be maintained for a period of not less than three years.
- (2) Records maintained must establish that the following conditions have been met:
 - (a) They must show the source and establish the existence of fees and commissions in a trust account.
 - (b) A generally accepted form of reconciliation has been completed that establishes the amount of fees or commissions or both that have been or are to be transferred out of the trust account.
 - (c) Commissions have not been transferred from a trust account prior to the beginning of the policy period for which premium was collected.
 - (d) Commissions or fees have not been left to accumulate in a trust account beyond the end of the policy period for which premium was

collected.

(e) Commissions attributed to premiums collected after the end of the policy period have been disbursed no later than when the net of those premiums are paid to the insurer.

(f) Interest accrued on funds held in a trust account have been withdrawn at least annually. Records maintained must establish the existence and amount of interest accrued.

(3) No person shall pay personal or business expenses directly from a trust account.

(4) Failure to comply with the requirements of this rule shall result in the rebuttable presumption that the person to whom this rule applies is in violation of Subsection 31A-23-310(1), U.C.A.

R590-135-5. Penalties.

Licensees failing to maintain records and information as required by this rule, will be subject to the forfeiture and penalty provisions of Section 31A-2-308, U.C.A.

R590-135-6. Severability.

If a provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provisions may not be affected thereby.

KEY: insurance law

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[\[Back to Top\]](#)